

1 Exhibit 7 is received except as noted by my rulings.

2 (Whereupon, the exhibit marked for
3 identification as TBF Exhibit 7 was
4 received into evidence.)

5 JUDGE CHACHKIN: Let's go on to paragraph 8 -- I
6 mean, Exhibit 8.

7 MR. EMMONS: TBF offers TBF Exhibit 8, declaration
8 of Franklin Burt.

9 MR. SCHAUBLE: Your Honor, my first objection is to,
10 again, paragraph 2, the last, the last -- the date at the end,
11 I presume Your Honor will reserve ruling on.

12 JUDGE CHACHKIN: Yes.

13 MR. SCHAUBLE: And I object to paragraph 3 on
14 page 3, going onto page 4. I think this is similar to the
15 type of matter Your Honor has ruled on previously.

16 JUDGE CHACHKIN: Paragraph 3 will not be received.

17 MR. EMMONS: Well, Your Honor, this discusses par-
18 ticular program appearances that this witness has made.

19 JUDGE CHACHKIN: Not paragraph 3 doesn't.

20 MR. EMMONS: It does, unless I'm looking at the
21 wrong exhibit. It's paragraph 3, the, the lead sentence, "The
22 first occasions --

23 JUDGE CHACHKIN: Which one are we looking at?

24 MR. SCHAUBLE: I thought we were on Frank G. Burt.

25 JUDGE CHACHKIN: Thought we were on 8, declaration

1 of Frank G. Burt.

2 MR. EMMONS: Oh, I'm sorry.

3 JUDGE CHACHKIN: Paragraph 3 again has general --

4 MR. EMMONS: I'm sorry, Your Honor, I was on the
5 wrong --

6 JUDGE CHACHKIN: All right, paragraph 3 will not be
7 received consistent with my prior rulings.

8 MR. SHOOK: Your Honor, there are two paragraphs
9 numbered paragraph 3 in this exhibit.

10 JUDGE CHACHKIN: Oh, are there? Maybe that's the
11 difficulty.

12 MR. EMMONS: Okay, that's the problem.

13 JUDGE CHACHKIN: All right.

14 MR. SCHAUBLE: My objection -- I see that.

15 JUDGE CHACHKIN: Oh, all right.

16 MR. SCHAUBLE: My objection is to the second para-
17 graph number 3.

18 JUDGE CHACHKIN: All right.

19 MR. SCHAUBLE: Beginning on page --

20 MR. SCHONMAN: Should we call that 3A?

21 JUDGE CHACHKIN: We're talking about paragraph 3
22 beginning on page 3.

23 MR. EMMONS: Okay.

24 JUDGE CHACHKIN: That paragraph, consistent with my
25 rulings, will not be received.

1 MR. EMMONS: All right.

2 MR. SCHAUBLE: I also object to paragraph 4 on
3 page 4, Your Honor.

4 (Pause.)

5 JUDGE CHACHKIN: I won't receive paragraph 4 on the
6 grounds there's no factual underpinning for it, except where
7 the reference is made to his Hand Extended Ministry. I'll
8 rule to see that sentence. The general statement made in the
9 first sentence and the last sentence will not be received; the
10 second sentence is received.

11 MR. SCHAUBLE: Thank you, Your Honor.

12 JUDGE CHACHKIN: TBF Exhibit 8 is received.

13 (Whereupon, the exhibit marked for
14 identification as TBF Exhibit 8 was
15 received into evidence.)

16 MR. EMMONS: Next, TBF offers TBF Exhibit 9, the
17 declaration of Jean Caceres-Gonzalez.

18 JUDGE CHACHKIN: Any objection?

19 MR. SCHAUBLE: Your Honor, to speed things up, could
20 we -- would it be acceptable to Your Honor that --

21 JUDGE CHACHKIN: You don't have to make any mention
22 about the license term.

23 MR. SCHAUBLE: Thank you.

24 JUDGE CHACHKIN: There will be a ruling on that and
25 that will cover any exhibit in which it --

1 MR. SCHAUBLE: Okay, thank you.

2 JUDGE CHACHKIN: As far as the rest of the exhibit
3 is concerned, any objection?

4 MR. SCHAUBLE: No, Your Honor.

5 JUDGE CHACHKIN: All right, TBF Exhibit 9 is
6 received.

7 (Whereupon, the exhibit marked for
8 identification as TBF Exhibit 9 was
9 received into evidence.)

10 JUDGE CHACHKIN: Ten?

11 MR. EMMONS: TBF now offers TBF Exhibit 10, the
12 declaration of Ruther M. Carter.

13 JUDGE CHACHKIN: Any objections?

14 MR. SCHAUBLE: Your Honor, paragraph, paragraph 8,
15 page 4, I object to mention of prayer -- the first three
16 sentences, I object to the mention of the prayer line on the
17 basis of relevance.

18 JUDGE CHACHKIN: Overruled.

19 MR. SCHAUBLE: And I object to the rest of the, rest
20 of the paragraph concerning home nurses who work -- the fact
21 that the witness worked with home nurses who work with the
22 bedridden concerning the, the elderly watching Channel 45 on
23 the basis of relevance and competence. There's, there's no
24 specific programs mentioned here, no description of any pro-
25 gramming, and this is apparently third -- as I read this, the

1 witness doesn't even directly work with the bedridden. She
2 works with home nurses who work with the bedridden.

3 JUDGE CHACHKIN: I won't receive it. It's -- no
4 factual basis for it. Apparently it's not based on the wit-
5 ness's experience and it's not clear on whose opinion -- on
6 what it's based on since, apparently, the only person she
7 visited was her own aunt.

8 MR. EMMONS: Your Honor, I'm not clear as to which
9 sentences you're ruling against.

10 JUDGE CHACHKIN: I'm, I'm -- my, my -- beginning
11 with "as part of my job," from there on, thereafter where it
12 refers to the elderly. There's no factual basis for a state-
13 ment as to what the elderly watch or don't watch. The only
14 elderly, apparently, she's visited personally is her aunt, and
15 it doesn't say when she visited her aunt, whether it was even
16 during the license term. Say, if she was the person who
17 visited the elderly, then it would be a different story but
18 there's no evidence that she does that. There's no evidence
19 even here that, that the home nurses have provided her with
20 information, so that material is, is not received. Any other
21 objection?

22 MR. SCHAUBLE: Yes, Your Honor, on page 5, I object
23 to paragraph 9 on the basis of --

24 JUDGE CHACHKIN: That won't be received. Para-
25 graph 10 will not be received. Again, it's too general;

1 there's no specifics as to programs which anyone can draw a
2 conclusion as to whether there's any validity in the state-
3 ments made. All right, TBF Exhibit 10 is received with excep-
4 tions noted.

5 (Whereupon, the exhibit marked for
6 identification as TBF Exhibit 10 was
7 received into evidence.)

8 MR. EMMONS: Next, TBF is -- offers TBF Exhibit 11,
9 the declaration of Stephen Dale Cronk.

10 JUDGE CHACHKIN: Any objection?

11 MR. SCHAUBLE: Yes, Your Honor, on paragraph 5 on
12 page 2, the first sentence, I object to the clause "as it was
13 far greater than on the other area television station, Channel
14 33, on which we made an appeal one year," on the basis that
15 there is no, there's no evidence as to when the witness
16 appeared on Channel 33 and, and therefore the comparison has
17 no relevance.

18 JUDGE CHACHKIN: Well, I'll, I'll receive the
19 exhibit but you're right about the deficiency here, that there
20 really is no basis since we don't know the year that the
21 comparison was made and we don't know whether it's within the
22 relevant time period.

23 MR. SCHONMAN: Your Honor, what, what part are we
24 receiving of paragraph 5 and what part are we rejecting?

25 JUDGE CHACHKIN: Well, what we will receive is the

1 first phrase dealing with the response that the station
2 received. In reference to Channel 33, it will not be received
3 since there is no way of knowing whether it falls within the
4 necessary time period. The rest of the material will be
5 received.

6 MR. SCHONMAN: Thank you, Your Honor.

7 (Whereupon, the exhibit marked for
8 identification as TBF Exhibit 11 was
9 received into evidence.)

10 JUDGE CHACHKIN: It's now getting to be 12:30.

11 We'll, we'll be in luncheon recess until 1:30.

12 (Whereupon, a recess was taken for lunch from 12:30
13 p.m. until 1:30 p.m.)

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A F T E R N O O N S E S S I O N

1 JUDGE CHACHKIN: We're back on the record. Let's
2 continue with the next exhibit.

3 MR. EMMONS: Your Honor, I think although you ruled
4 on the objections on Exhibit 11, I -- if I recall correctly,
5 you didn't state an overall statement that you were receiving
6 the rest of it into evidence.

7 JUDGE CHACHKIN: I think I did but let me see --

8 MR. EMMONS: If you think you did, I'm mistaken.
9 I'm sorry, but I didn't want the record to --

10 JUDGE CHACHKIN: TBF Exhibit 11 is received with the
11 exceptions noted.

12 MR. EMMONS: TBF next offers TBF Exhibit 12, the
13 declaration of Richard W. Dodge.

14 JUDGE CHACHKIN: Any objections?

15 MR. SCHAUBLE: Yes, Your Honor, on paragraph 7,
16 page 3, I object on the basis of competence. There's no
17 showing as to what programs or how many programs the witness
18 watched to form the basis for this opinion.

19 JUDGE CHACHKIN: I thought he's talking --

20 COURT REPORTER: Excuse me, could you move the mike
21 over a little, sir? Thank you.

22 JUDGE CHACHKIN: I thought he was specifically
23 discussing the programs in which he appeared. Isn't that what
24 he's discussing there?
25

1 MR. SCHAUBLE: I -- if he -- okay, I didn't see
2 that.

3 JUDGE CHACHKIN: And since he's discussing the
4 programs on which he has appeared, I'll overrule the objec-
5 tion.

6 MR. SCHAUBLE: I also object to paragraph 8,
7 Your Honor, page 3 going onto page 4. The first two -- the
8 first sentence, it states a general opinion, and the second
9 thing it just states he knows people who watch nothing else
10 but Channel 45; and then the rest of the paragraph deals with
11 pure -- a competency problem that is pure, pure hearsay, and
12 it's also rather vague as to -- he doesn't say when they
13 occurred, who were the people who talked, and doesn't, doesn't
14 provide very much sufficient detail to provide any weight to
15 his testimony.

16 MR. EMMONS: Your Honor, the first sentence speaks
17 to the reputation of the station in the community, and the,
18 and the rest of the paragraph, I believe, states the basis on
19 which the witness has information about that reputation.

20 JUDGE CHACHKIN: Where does it say that's the basis
21 of the reputation testimony?

22 MR. EMMONS: Well, for example, the third sentence
23 says, "I have attended meetings which recovering alcoholics
24 have testified that the programming they watched helped them
25 recover," and the next sentence likewise refers to instances

1 | in which the witness heard people express reactions to pro-
2 | gramming on the station.

3 | JUDGE CHACHKIN: Again, my difficulty is we have no,
4 | no specific facts. General observations, general statements
5 | with nothing to back it up. You know, Rule 401 of the Federal
6 | Rules of Evidence defines relevant evidence as -- means evi-
7 | dence having any tendency to make the existence of any fact
8 | that is a consequence to the determination of the action more
9 | probable or less probable than it would be without the evi-
10 | dence. Now, how, how does this make this more probable, this,
11 | this type of general statements here with no facts to back it
12 | up. He attended meetings in the Miami area in which they've
13 | testified the program they watch on -- that they -- helped
14 | them recover from their, their addictions.

15 | MR. EMMONS: Well --

16 | JUDGE CHACHKIN: Am I supposed to draw a conclusion
17 | there that the programming -- what particular programming, and
18 | how did it help them recover from their addictions, and what
19 | are the other miscellaneous factors that helped them recover
20 | from their addictions?

21 | MR. EMMONS: Well, I think that does provide some
22 | evidence that, that persons in the public did find the pro-
23 | gramming of this station helpful to them, and I think that,
24 | that tends to make more probable the station's entitlement to
25 | a renewal expectancy than it would be without that evidence.

1 JUDGE CHACHKIN: Well, that's my difficulty. I
2 don't have enough facts here on which I could draw that kind
3 of conclusion. First place, I have difficult also, I must
4 say, with this subjective evidence, "that program they watched
5 helped them recover from their addictions." What are we
6 talking about, what programs? Programs which someone from
7 Alcoholics Anonymous was on or what -- and which they drew
8 benefit or what, what are we talking about? What program,
9 what specific programming, are you referring to when you say
10 that the programming helped them recover from the addiction,
11 never mind who these individuals are.

12 MR. EMMONS: Well --

13 JUDGE CHACHKIN: What specific program are you
14 pointing to --

15 MR. EMMONS: Well --

16 JUDGE CHACHKIN: -- religious programming? What
17 programming are you pointing to?

18 MR. EMMONS: It does not, it doesn't point to
19 specific programming but it does point to programming that was
20 on the station, and, and that's the relevant part of renewal
21 expectancy.

22 JUDGE CHACHKIN: Well, no, you have to give specif-
23 ics. It has to be a particular program that you're referring
24 to. All the programs helped them recover? Was there one
25 specific program that was directed toward alcoholics or just

1 | listening to the religious message? I mean, what are we
2 | talking about here?

3 | MR. EMMONS: Well, I can't add to what's --

4 | JUDGE CHACHKIN: I know you can't, that's my diffi-
5 | culty. I can't either. All I have are these general state-
6 | ments and I, I don't think it's of any value without more
7 | facts. I'm not going to receive paragraph 8. There's not
8 | enough factual basis, facts stated there. It's mainly just
9 | conclusions. All right, TBF Exhibit 12 is received except as
10 | noted.

11 | (Whereupon, the exhibit marked for
12 | identification as TBF Exhibit 12 was
13 | received into evidence.)

14 | JUDGE CHACHKIN: Thirteen, any objection to 13?

15 | MR. SCHAUBLE: Yes, Your Honor, I have an objection
16 | to the entire exhibit on the basis that the time, time period
17 | that is consistently used throughout this exhibit is 1986,
18 | which is outside the license period, through 1991, and in
19 | reviewing this exhibit I don't see any, I don't see any spe-
20 | cific dates within the time period that are given here, and
21 | there's no way Your Honor can make a finding based upon this
22 | exhibit that Mr. Hughes' opinion for the event that occurred
23 | relate to matters that occurred within the renewal period.

24 | MR. EMMONS: Well, Your Honor, I'm not going to
25 | repeat the entire argument. We had -- there was a previous

1 exhibit, I think it was Mr. Beneby's, where the same issue
2 was, was addressed. I think --

3 JUDGE CHACHKIN: No, this is different. He doesn't,
4 he doesn't refer to any renewal period. He just refers to the
5 period 1986 through 1991.

6 MR. EMMONS: Well, that, that is the renewal period
7 except for the year 1986, Your Honor, and, and so to that
8 extent, it's the same -- I think Mr. Schauble is raising the
9 same objection that he raised concerning Mr. Beneby's testi-
10 mony. Oh, but I do want to point out that elsewhere in, in
11 the evidence being offered, there is -- it is documented that
12 one of the appearances of this witness on the program "Praise
13 the Lord -- South Florida" occurred on December 13, 1991.
14 That will be found at TBF Exhibit 33, Tab HH, page 159, and to
15 that extent, I think the, the objection that Mr. Schauble has
16 raised is, is addressed. That, that is the only instance in
17 which, as far as I know, there is elsewhere in the, in the
18 evidence documentation of, of dates of appearances by this
19 witness during this time period.

20 MR. SCHAUBLE: Your Honor, I think the problem is if
21 you know there is one mention here that -- there is a refer-
22 ence to multiple mentions and it's still hard to tell what
23 he's, what he's referring to that took place within the time
24 period and what took, took place outside the time period.

25 JUDGE CHACHKIN: Well, he refers to, on page 1, that

1 he's appeared several times, and you're saying that the only
2 appearance that you have during the license period is one?

3 MR. EMMONS: I, I'm saying, Your Honor, that the
4 only one that is documented -- and, and, and we have not, I
5 think, not purported to try to document every single program
6 that was broadcast during the 5-year license term, but the one
7 that I found that is in the records is in the place in
8 Exhibit 33 where I cited.

9 JUDGE CHACHKIN: And your objection is to the entire
10 exhibit on the grounds that there is no documentation of when
11 he appeared outside that one time?

12 MR. SCHAUBLE: Well, I think, Your Honor, we can go
13 through exhibits specifically if you want but there's no way
14 to tie in whether what he's referring to in this, in this
15 exhibit -- what he's referring to that happened inside the
16 time period and no, no way to tell what happened outside the
17 time period.

18 JUDGE CHACHKIN: Well --

19 MR. SCHAUBLE: I mean, there is, there is the one
20 instance, but, I mean, he doesn't --

21 MR. EMMONS: Well, in addition to that --

22 MR. SCHAUBLE: -- break down his exhibit in terms
23 of --

24 MR. EMMONS: In addition to that one instance of a
25 program, Your Honor, as to paragraphs 5 and 6 in which the

1 witness is talking about the outreach activities involved in
2 His Hand Extended and Prayer Line, the, the record elsewhere
3 will, will establish, and particularly the testimony of
4 Mr. Everett, will confirm that those activities did occur
5 throughout the, throughout the license term, and so that
6 places those activities within the, within the license term
7 and make them relevant.

8 JUDGE CHACHKIN: I'll receive this exhibit to the
9 extent that which it discusses Prayer Line, His Hand Extended;
10 and to the extent, with respect to the other material, dealing
11 with his appearances will be received to the extent it can be
12 backed up by documentation showing the specific date he
13 appeared and will only be received with respect to that one
14 program.

15 MR. SCHAUBLE: Your Honor, there's also paragraph 3,
16 which relates to his being contacted by the station during
17 that period to solicit his input regarding community issues.
18 To my knowledge, there's nothing in the record
19 demonstrating -- elsewhere in the record demonstrating when
20 this person would have been contacted.

21 JUDGE CHACHKIN: Wouldn't, wouldn't the -- isn't
22 the -- the best evidence of this is the -- your ascertainment
23 efforts, the evidence as to ascertainment efforts when he was
24 contacted? Who was contacting him? What, what's the rele-
25 vance of the fact that he was contacted?

1 MR. EMMONS: Well, it goes, Your Honor, to -- I
2 think it's, it's offered for the purpose of establishing the
3 basis for his impression and opinion as to the merits of the
4 station's efforts, and I think is relevant to that extent.
5 Now, I, I, I can see Mr. Schauble's point that this paragraph
6 does not identify the point at which he was contacted for that
7 purpose.

8 JUDGE CHACHKIN: I won't receive paragraph 3. Any
9 other objections?

10 MR. SCHAUBLE: And on paragraph 4, Your Honor, I
11 object to the basis of competency with respect to the wit-
12 ness's opinion. You know, the witness states that he watches
13 the station on a regular basis but that's not broken down at
14 all, while he mentions -- while he does mention programs, he
15 doesn't -- there's no competent evidence as to whether he
16 watched the program every week or -- a regular basis could be
17 once a month, or once every 2 months, or whenever, you know,
18 whenever he was in front of the television.

19 JUDGE CHACHKIN: Well, as I indicated, I'm not
20 receiving evidence of, of watching -- of listening to the
21 station on some kind of sporadic basis. I'm only interested
22 in testimony whereby these leaders, these community -- persons
23 involved in community activities have appeared on the station
24 or the station has provided some service for the community
25 organization in which it's involved. As far as the general

1 statements as to it serving the community needs, overall
2 service of the community needs, I'm not receiving that. I
3 don't believe this is competent for that purpose. I think
4 that remains to the triers of the fact to determine whether
5 stations serve the community needs. Paragraph 4 will not be
6 received.

7 MR. SCHAUBLE: And finally, Your Honor, for the
8 reasons previously stated, I object to paragraph 6, consider-
9 ing the prayer line as being --

10 JUDGE CHACHKIN: I've already indicated I will
11 receive that here. TBF Exhibit 13 as modified by my rulings
12 is received.

13 (Whereupon, the exhibit marked for
14 identification as TBF Exhibit 13 was
15 received into evidence.)

16 JUDGE CHACHKIN: Fourteen? Any objections?

17 MR. SCHAUBLE: Yes, Your Honor, first on page 3,
18 paragraph 6, beginning in the middle of the paragraph, the
19 sentence, "Channel 45 also provides a 24-hour prayer line"
20 down to the end of the paragraph, I object on the basis of
21 relevance for the reasons previously stated.

22 JUDGE CHACHKIN: Overruled.

23 MR. SCHAUBLE: And on paragraph 7, I object to, to
24 the -- I object on the basis of competency. Here the witness
25 apparently is drawing some sort of conclusion about --

1 comparative conclusion about how Channel 45 treats community
2 issues vis a vis other television stations. There's no -- I
3 submit there's not enough competent evidence that the witness
4 has sufficient knowledge about how other television stations
5 treat its community issues. While there were some examples
6 given, you know, all -- it says, "I have appeared on programs
7 broadcast on other Miami television stations." We don't know
8 when that happened; we don't know how often that happened.
9 And so I think there is a, one, a relevancy problem and, two,
10 a competency problem.

11 MR. EMMONS: Your Honor, we previously stated why we
12 believe that is relevant and, and competent, and I'm -- I
13 don't need -- don't think I need to belabor that.

14 JUDGE CHACHKIN: Well, there's no factual basis for
15 statements about how other stations treated, well, the subject
16 of homeless. There's no evidence here indicating how many
17 other stations he listens to, when he listened to those other
18 stations. Only insofar as his appearance on Channel 45 --
19 well, that, that's -- the only part that's relevant that I can
20 see here that's competent is --

21 (Whereupon, a brief recess was taken.)

22 (End of Tape 2; Start of Tape 3.)

23 COURT REPORTER: I'm sorry, I missed the last --

24 JUDGE CHACHKIN: All right, the first sentence is
25 relevant. The remainder of the paragraph would be relevant

1 but must be rejected since there's no facts set forth as to
2 his listening habits from which he could render an opinion.
3 So with the exception of the first sentence, the remainder of
4 paragraph 7 is rejected. Any other objections?

5 MR. SCHAUBLE: Yes, Your Honor, I object to para-
6 graph 8 on page 4 on the basis of relevance. The fact that
7 this person allows, you know, WHFT to be, one, a limited
8 amount of program that he allows to be viewed as, as part of
9 the program, I don't, I don't understand -- I don't see any
10 relevance to that.

11 MR. EMMONS: It's relevant to explain the witness's
12 view of the merits of the programming of this station,
13 Your Honor.

14 MR. SCHAUBLE: Your Honor, if it's being offered for
15 that purpose, I don't think that's a sufficient competence
16 basis.

17 JUDGE CHACHKIN: I'll overrule the objection to
18 paragraph 8 since it's not -- it's similar as to other
19 material where there's an overall opinion as to the overall
20 station. He's talking about what -- specifically, how it
21 deals with problems that he's familiar with. Any other objec-
22 tions?

23 MR. SCHAUBLE: Yes, Your Honor, I object to para-
24 graph 9 on the basis of competency describing these two pro-
25 grams, which he says, "I've watched on a regular basis."

1 There's no, no information on exactly what programs he watched
2 or how often he watched. With respect to the last sentence of
3 the paragraph --

4 JUDGE CHACHKIN: Well, I, I have no problem with his
5 description of the programming "Praise the Lord -- South
6 Florida" and Feedback." My problem is his attempt to compare
7 the treatment that WHFT gave these issues with other stations,
8 with no identification of what other stations he watched, the
9 frequency which he watched these stations. So there's no
10 basis for him to -- his opinion, no factual basis for his
11 opinion, so I will reject the, the portion of paragraph 9
12 which begins with "the treatment WHFT gave these issues was
13 different from," and to the remainder of the paragraph.

14 MR. SCHAUBLE: I also object to paragraph 10,
15 Your Honor. I object on the ground of relevance that this
16 witness is too subject to form a basis for a -- concerning
17 WHFT's programming and there's, you know, there's no specifics
18 here. The persons aren't identified, when the material in
19 question happened isn't given, and it appears that the source
20 of -- for at least part of this was hearsay which is being
21 offered to the truth of the matter assertion.

22 MR. EMMONS: Your Honor, the Commission has previ-
23 ously accepted testimony from public witness's concerning the
24 effective station's programming on a community. For example,
25 in the Fox decision, their -- the initial decision recites or

1 quotes a witness as testifying that "KTGB's efforts positively
2 affected the lives of many homeless people in the Los Angeles
3 area." That is the essence of the first sentence of para-
4 graph 10 here, and the remainder of paragraph 10 is simply
5 offered by the witness to explain the factual basis on which
6 he has reached the conclusions stated in the first sentence.

7 MR. SCHAUBLE: Your Honor, I don't, I don't hear
8 what Mr. Emmons has quoted as, as being -- as making relevant
9 the "impact" on the lives. Any programming that a station may
10 offer, to, to use an analogy that I believe counsel for
11 S.A.L.A.D. offered earlier, the Commission has rejected the
12 argument that a station could get credit for, say, classical
13 programming or rock music because that music somehow affected
14 people's lives, and the period where the, period where the,
15 the programming in question is not described with any speci-
16 ficity. There's no way to make -- to base a finding that
17 this, this relates -- this is relevant to renewal expectancy
18 criterion.

19 JUDGE CHACHKIN: I must say I've never been con-
20 fronted with such testimony in any case, including Fox that
21 you mentioned, and never dealt with a situation where any
22 claim was made that as a result of a station's programming, an
23 individual didn't commit suicide or straightened his life out,
24 no one in any case that I've been involved, involved in where
25 such profound claims made.

1 MR. EMMONS: Well, it's a, it's a --

2 JUDGE CHACHKIN: This is certainly unique.

3 MR. EMMONS: It's a claim -- in the nature of the
4 claim that a station's efforts positively affected the lives
5 of many homeless people, which was accepted in Fox.

6 JUDGE CHACHKIN: But whether a man committed suicide
7 or didn't commit suicide, his depression -- I mean, certainly
8 we're not competent here on the basis of a statement to make a
9 judgement as to this was the reason he was depressed or this
10 is the reason he didn't commit suicide. I'm not aware of any
11 Commission cases where the Commission has ever accepted this
12 kind of testimony, any more so than if someone wanted to
13 claim, for instance in the case of rock music, that as a
14 result of rock music, it's profoundly changed their lives,
15 they became a famous musician; or classical music or what have
16 you. I don't know why this type of programming should be
17 treated any differently. I don't think the Commission gets
18 into subjective judgements that the -- about the quality of
19 programming and effect on someone's life. The Commission
20 gets -- deals with objective criteria, ascertainment, the
21 needs and ascertainments, and the program that met these needs
22 and community needs, but here we're dealing with all kinds of
23 different type of evidence, and I doubt if you'll find any
24 case where this type of testimony has ever been received.
25 Certainly you haven't cited to me any case where this type of

1 testimony was received. When you say -- you talk about the
2 positive effect on the homeless, what they're talking about
3 there, the fact that on station -- on programming, they might
4 have brought out the fact that the, the homeless could visit a
5 particular -- places for the homeless to visit to find some
6 help, or jobs, or what have you, but here we're talking about
7 a situation where the claim is made that the result of what
8 was on the station, a man didn't commit suicide. I don't know
9 if we're all psychiatrists here to, to find out whether that
10 was the real reason they didn't commit suicide, or he got over
11 his depression, or he stopped becoming an alcoholic. I mean,
12 there's not -- we don't have here any -- these, these are
13 subjective opinions. I don't know how we can make any find-
14 ings or conclusions on these things. This is not what the,
15 what, what the renewal expectancy deals with; and I've indi-
16 cated before that as far as I know, there are no cases where
17 the Commission has ever accepted subjective feelings, opin-
18 ions, of listeners who have gone into the quality of
19 programming, which you're asking me to do here, and you
20 haven't cited me any cases. I'm not going to accept paragraph
21 10 unless you could show me some precedent where the
22 Commission has ever considered of subjective testimony.

23 (Pause.)

24 JUDGE CHACKIN: Any other objections?

25 MR. SCHAUBLE: Yes, Your Honor, on paragraph 11 on

1 | page 6, I object to the first sentence, "I often hear people
2 | say that Channel 45 serves the real needs of the Miami commu-
3 | nity," on the basis of hearsay and competency.

4 | MR. EMMONS: Reputation, Your Honor.

5 | JUDGE CHACHKIN: That's not reputation. That's a
6 | statement. Objection sustained.

7 | MR. SCHAUBLE: Going further down the paragraph,
8 | Your Honor, eighth line down, "Many of our donors have men-
9 | tioned that Channel 45 was a real blessing to the community.
10 | It encourages and challenges to become personally involved
11 | with helping people." I object on the same basis.

12 | MR. EMMONS: I have the same response, Your Honor.

13 | JUDGE CHACHKIN: I'll overrule that objection.

14 | MR. SCHAUBLE: And finally, Your Honor, the rest of
15 | the paragraph, "I am also aware that the station has been a
16 | very important part in the lives of many people, who had a
17 | visit with the elderly or shut-ins." Down to the end of the
18 | paragraph. I object on, on the basis of competence. The fact
19 | that, that he visits them doesn't seem to relate to a
20 | person's, person's position as a community leader, and the
21 | fact that no matter how -- I don't see the relevance to the
22 | fact that certain people don't want to watch the violence and
23 | sexuality of the soap operas, or the subjective criterion that
24 | people think of Channel 45 as a companion. That's not a basis
25 | for awarding for the renewal, renewal expectancy.

1 JUDGE CHACHKIN: I'll receive it since it's based on
2 this witness's involvement. I'd agree with you that the --
3 it's, it's negligible in terms of, of evidence. Anything
4 else?

5 MR. SCHAUBLE: Your Honor, on paragraph 12, from the
6 beginning of the paragraph down to "African-American and
7 Hispanics are well-represented in the local programming broad-
8 cast by the station, both as hosts of the program as well as
9 guests being interviewed." I object on the basis of compe-
10 tence. There are certain statements made after that concern-
11 ing the programs the witness was on, which I have no objection
12 to.

13 JUDGE CHACHKIN: And I will only receive paragraph
14 12 to the extent it specifically refers to programs on which
15 the witness appeared on and has personal knowledge of. Any
16 general statements made that don't have a factual basis are
17 rejected.

18 MR. SCHAUBLE: Your Honor, my -- this is -- the
19 sentences I don't object to are beginning on the, the bottom
20 of page 6 "the moderator of the "Feedback" program on which I
21 appeared was a local African-American, and during most of my
22 appearance on "Praise the Lord -- South Florida," the modera-
23 tors were an African-American husband and wife team." My
24 objection goes to the remainder of that paragraph.

25 JUDGE CHACHKIN: And that's the only portions I'm